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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/759,926	01/16/2004	Artur Schworer	3135	8226

7590 01/13/2006

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EXAMINER

SAFAVI, MICHAEL

ART UNIT	PAPER NUMBER
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3673

DATE MAILED: 01/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/759,926	SCHWORER, ARTUR	
	<b>Examiner</b>	<b>Art Unit</b>	
	M. Safavi	3673	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 31 October 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 12-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 12-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

### ***Drawings***

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the “elastic sealing [lip]...disposed on at least one outermost spacer of two mounting positions facing another”, (claims 12, 18, and 22), must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 12-22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As for claim 12, it is not understood as to what is being defined by “at least four spacers at mounting positions for the spacers, one mounting position each being located at two outer sides of the central element facing the formwork elements, another mounting position each being located on inner sides of the formwork element facing the outer sides of the central element, the spacers being configured for enabling a plurality of spacers to be mounted side by side, one upon the other at each mounting position with at least one spacer being mounted at each mounting position” as is recited by claim 12. For example, what is being defined by “one mounting position each being located at two outer sides of the central element facing the formwork elements”? Lines 10-12 of claim 12 appear to present one mounting position as with “one mounting position...” but then proceed to recite or define a plurality of mounting positions as with “each being located at two outer sides of the central element facing the formwork elements”. Lines 12-13 present the same incongruity. Lines 12-13 of claim 12 appear to present one mounting position as with “another mounting position...” but then proceed to recite or define a plurality of mounting positions as with “each being located on inner sides of the formwork element”. And, how does a single formwork element possess a plurality of inner sides as appears recited at line 13 of claim 12? Further, it is not clear as to what is

being defined by “the spacers being configured for enabling a plurality of spacers to be mounted side by side, one upon the other at each mounting position”. Are the spacers assembled with the formwork or not? Otherwise, how are the spacers “mounted side by side, one upon the other at each mounting position”? In other words, how are the spacers “mounted side by side, one upon the other”? Are the spacers are side by side as well as one atop another? And, how are the spacers “mounted side by side, one upon the other at each mounting position”? If each “mounting position” serves to hold one spacer, as appears defined at lines 10-13 of claim 12 how can “spacers” be mounted side by side...at each mounting position”? Or, is there more than one spacer at each mounting position? This would present a question as to exactly what is defined by a “mounting position”.

Lines 18-19 of claim 12 recite, “wherein one of the elastic sealing lips is disposed on at least one outermost spacer of two mounting positions facing another”. However, it is not clear as to what is being defined by “outermost spacer” or “two mounting positions facing another”. Claim 12 should aptly introduce “outermost spacers” as well as “mounting positions facing another”, (presumably the claim language intends to mean --facing one another--). Fig. 2 of the instant drawings for example, appears to show an arrangement which may be considered to illustrate any number of “outermost” spacer positions as well as any number of spacers facing any other number of spacers. See, for example, spacer 33 facing spacer 34 which spacer 33 has a sealing lip but does not appear as the outermost layer.

It is not clear as to what is being defined by "the at least four spacers are formed identically, the spacers with sealing lip distinguished from spacers without sealing lip only by the additional sealing lip"? To what does "sealing lip", (both occurrences), refer in line 20? And, what is "the additional sealing lip"?

Language presented within claims 18 and 22 appears identical to that of claim 12. As such, all ambiguities represented above with respect to claim 12 apply to each of claims 18 and 22.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. Safavi whose telephone number is (571) 272-7046. The examiner can normally be reached on Mon.-Thur., 8:30-5:00.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



M. Safavi  
December 30, 2005

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ART UNIT 3673